

PT 96-16  
Tax Type: PROPERTY TAX  
Issue: Religious Ownership/Use

STATE OF ILLINOIS  
DEPARTMENT OF REVENUE  
OFFICE OF ADMINISTRATIVE HEARINGS  
SPRINGFIELD, ILLINOIS

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PROGRESSIVE BAPTIST CHURCH	)		
Applicant	)		
	)	Docket #s	93-16-789
	)		93-16-1051
v.	)		
	)	Parcel Index #s	32-23-415-002
	)		32-23-303-051
	)		
thru	)		
	)		32-23-303-054
THE DEPARTMENT OF REVENUE	)		
OF THE STATE OF ILLINOIS	)		

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RECOMMENDATION FOR DISPOSITION

Synopsis:

The hearing in this matter was held at 100 West Randolph Street, Chicago, Illinois, on January 23, 1996, to determine whether or not Cook County parcels numbered 32-23-415-002, and 32-23-303-051 through 32-23-303-054 qualified for exemption from real estate tax for the 1993 assessment year.

Rev. Ellis Franklin, Jr., pastor of the Progressive Baptist Church (hereinafter referred to as the "Applicant"), was present and testified on behalf of the applicant.

The issues in this matter include first, whether the applicant was the owner of these parcels during the 1993 assessment year. The second issue is whether the applicant is a religious organization. The last issue is whether these parcels and the buildings thereon were used by the applicant for religious purposes during the 1993 assessment year, or were they leased or otherwise used for profit, during that year. Following the submission of all of the evidence and a review of the record, it is determined that the applicant owned these

parcels during all of the 1993 assessment year. It is also determined that the applicant qualifies as a religious organization. Finally, it is determined that the applicant used these parcels and the buildings thereon for religious purposes and did not use them with a view to profit during the 1993 assessment year, except for the second floor of the community building which was used for residential purposes and not primarily for religious purposes during the period June 1, 1993 through December 31, 1993.

Findings of Fact:

1. The position of the Illinois Department of Revenue (hereinafter referred to as the "Department") in this matter, namely that the parcels here in issue did not qualify for exemption during the 1993 assessment year, was established by the admission in evidence of Department's Exhibits numbered 1 through 5B.

2. During the months of March and April 1994, the Cook County Board of Appeals transmitted Applications for Property Tax Exemption to Board of Appeals concerning these parcels for the 1993 assessment year, to the Department. (Dept. Ex. Nos. 1 & 10)

3. On April 27, 1995, the Department notified the applicant that it was denying the exemption of these parcels for the 1993 assessment year. (Dept. Ex. Nos. 2 & 2A)

4. By a letter dated May 10, 1995, Rev. Ellis Franklin, Jr., the pastor of the applicant, requested a formal hearing in this matter. (Dept. Ex. No. 3)

5. The hearing in this matter, held on January 23, 1996, was held pursuant to that request.

6. The applicant was incorporated pursuant to the General Not For Profit Corporation Act of Illinois on May 13, 1987, for the following purpose:

Promote the cause of Christianity through the systematic teaching of the Bible. (Dept. Ex. No. 1F)

7. During 1993, the applicant had approximately 300 members and an average weekly attendance at Sunday morning worship services of approximately 200. (Tr. p. 14)

8. During 1993, the applicant held Sunday morning worship services at 9:30 A.M. and Sunday evening services on the first and third Sundays of each month, beginning at 5:00 P.M. (Tr. p. 14)

9. Cook County Parcel No. 32-23-415-002, commonly known as 1402 East 14th Place, during 1993 was improved with a single family residence, which during that entire assessment year was occupied by Rev. Franklin, his wife and their son. (Tr. p. 13)

10. The applicant acquired parcel No. 32-23-415-002 pursuant to a contract for deed dated May 21, 1991. (Dept. Ex. No. 1E)

11. Rev. Franklin testified that it was a condition of his employment that he live in the house on parcel No. 32-23-415-002 during all of the 1993 assessment year. He did not pay rent for living in the house on this parcel and the applicant made the payments on the contract for deed. (Tr. p. 13)

12. This parcel and the house thereon were sold by the applicant during December 1994. (Tr. p. 14) The proceeds of the sale of this parcel and the house located thereon were received by the applicant which used those proceeds to purchase another parsonage. (Tr. p. 23)

13. Cook County parcels numbered 32-23-303-051 through 32-23-303-054 are improved with the applicant's sanctuary building, the two story community house, a rear house and a shed. (Tr. pp. 16 & 17)

14. The sanctuary building was used exclusively for religious purposes during 1993. (Tr. p. 17)

15. During 1993, the rear house was used exclusively for the storage of church property. (Tr. pp. 17 & 18)

16. The shed was used by the applicant, during 1993, for the storage of the church riding lawn mower and garden tools. (Tr. p. 18)

17. During the 1993 assessment year, the Applicant leased the community house to Last Call For God's Love Ministries, (hereinafter referred to as the "Ministries") during the period January 1, 1993, through June 1, 1993. (Dept. Ex. No. 1AJ)

18. I take administrative notice of the fact that the Department determined that the Ministries qualified for exemption in Docket No. 91-16-145.

19. The Ministries used the community house, during the period of the lease, as a half way house for recovering alcoholics and drug abusers. The second floor was used as a place for the men to stay and the first floor was set up as a community room for meetings and was also used on Sunday mornings by the applicant as a place for an adult Sunday school class to meet. (Tr. pp. 19 & 20)

20. A van picked the men up in the morning and drove them to their job site and returned them in the evening. There were full-time staff members of the Ministries at this building at all times to supervise the behavior of the men. (Tr. pp. 20 & 21)

21. After the expiration of the lease on June 1, 1993, the applicant allowed several men who had been in the program of the Ministries to stay there until they could find other housing. Several of the men from the program of the Ministries were still living there at the end of the year. These men did not pay any rent to the applicant and no evidence was offered that any program activities for the Ministries were offered there after the lease expired. (Tr. pp. 22 & 23)

22. During the period June 1, 1993, through December 31, 1993, the applicant continued to use the first floor of the community house on Sunday mornings for the adult Sunday school class. (Tr. p. 22)

#### Conclusions of Law:

Article IX, Section 6, of the Illinois Constitution of 1970, provides in part as follows:

The General Assembly by law may exempt from taxation only the property of the State, units of local government and school districts and property used exclusively for agricultural and horticultural societies, and for school, religious, cemetery and charitable purposes.

35 **ILCS** 205/19.2, exempts certain property from taxation in part as follows:

All property used exclusively for religious purposes, or used exclusively for school and religious purposes, and not leased or otherwise used with a view to profit, including all such property owned by churches...and used in conjunction therewith as parsonages...provided for ministers...their spouses, children and domestic workers, performing the duties of their vocation as ministers at such churches....

A parsonage,...shall be considered for purposes of this Section to be exclusively used for religious purposes when the...church,...requires that the above listed persons who perform religious related activities shall, as a condition of their employment or association reside in such parsonage....

It is well settled in Illinois, that when a statute purports to grant an exemption from taxation, the fundamental rule of construction is that a tax exemption provision is to be construed strictly against the one who asserts the claim of exemption. International College of Surgeons v. Brenza, 8 Ill.2d 141 (1956). Whenever doubt arises, it is to be resolved against exemption, and in favor of taxation. People ex rel. Goodman v. University of Illinois Foundation, 388 Ill. 363 (1944). Finally, in ascertaining whether or not a property is statutorily tax exempt, the burden of establishing the right to the exemption is on the one who claims the exemption. MacMurray College v. Wright, 38 Ill.2d 272 (1967).

Concerning Cook County Parcel No. 32-23-415-002 commonly known as 1402 East 14th Place, I conclude that since Rev. Franklin and his family lived there during the entire 1993 assessment year, and since it was a condition of his employment that he live there, that this parcel qualified as a parsonage during the 1993 assessment year.

In the case of Christian Action Ministry v. Department of Local Government Affairs, 74 Ill.2d 51 (1978), the Court held that the ministry, the contract purchaser pursuant to a contract for deed, was the owner of the real estate in

question for real estate tax exemption purposes. I therefore conclude that the applicant was the owner of parcel No. 32-23-415-002 during the 1993 assessment year.

Concerning Cook County Parcels numbered 32-23-303-051 through 32-23-303-054, I conclude that the sanctuary building, the back house and the shed were used for religious purposes and therefore qualified for exemption during 1993.

In the case of Childrens Development Center v. Olson, 52 Ill.2d 332 (1972), the Supreme Court held that where one exempt entity leases property to another exempt entity, which uses said property for an exempt purpose, the lease will not be considered a lease for profit. Consequently I conclude that the lease of the community building to the Ministries was not a lease for profit. The community building then I conclude qualified for exemption for the period January 1, 1993, through June 1, 1993, which was the portion of the lease period within the 1993 assessment year.

During the period June 1, 1993, through December 31, 1993, since the first floor of the community building was used every Sunday for the meeting of an adult Sunday School class, I conclude that said area was used for religious purposes by the applicant. The second floor, during that period was occupied by several participants in the former program of the Ministries at that building, while they looked for another place to stay. Since no evidence was offered that any activities were provided by the Ministries in this building during the period June 1, 1993, through December 31, 1993, I conclude that the second floor of the community building was used primarily for residential purposes and not primarily for religious purposes.

I therefore recommend that Cook County Parcel No. 32-23-415-002 be exempt from real estate taxation for the 1993 assessment year.

I further recommend that Cook County Parcels numbered 32-23-303-051 through 32-23-303-054 be exempt from real estate taxation for the 1993 assessment year, except for the second floor of the community center and one-half of the land on

which the community center stands, for the period June 1, 1993, through December 31, 1993.

Respectfully Submitted,

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George H. Nafziger  
Administrative Law Judge  
September 16, 1996